

REMARKS

In the Office Action dated August 22, 2007, the Examiner states that this application contains the following groups of inventions that are not so linked as to form a single general inventive concept under PCT Rule 13.1.

Group I. Claims 1-5, 8, 11-14, and 18, drawn to a method of treating arthritis.

Group II. Claims 22, and 29-31, as they drawn to a composition comprising an antibody.

Group III. Claims 22 and 32, as they are drawn to a composition comprising a soluble G-CSFR.

Group IV. Claims 22 and 36, as they are drawn to a composition comprising a polynucleotide.

In order to be fully responsive to the Examiner's requirements for restriction, Applicants provisionally elect, with traverse, to prosecute the subject matter of Group I, claims 1-5, 8, 11-14, and 18, drawn to a method of treating arthritis. However, pursuant to 37 C.F.R. §§1.111 and 1.143, Applicants hereby traverse the Examiner's requirement for restriction and request reconsideration thereof in view of the following remarks.

A requirement for restriction presupposes an analysis of the subject application in light of the rules governing this practice, i.e., 37 C.F.R. §1.499 and PCT Rules 13.1 and 13.2. PCT Rule 13.1, first sentence, states: "The international application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept ("requirement of unity of invention")." (Emphasis added.) PCT Rule 13.2 states: "The expression "technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art." (Emphasis added.)

The Examiner alleges that Groups I-IV do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons. The Examiner alleges that Claim 1 is anticipated by U.S. Patent No. 5,449,515. The Examiner alleges that the '515 patent teaches the administration of IL-4, which decreases the level of expression of G-CSF, in a method of treating arthritis. The Examiner contends that the '515 patent teaches all of the limitations of claim 1. Therefore, the Examiner reasons that the remaining claims lack the same or corresponding special technical feature and a restriction is required.

Applicants respectfully submit that unity of invention is the issue at hand. The Examiner should not rely on an evaluation of novelty of the present invention at this stage in order to determine whether the requirement of unity of invention is satisfied under PCT Rule 13.1. Applicants should be given the opportunity to argue on merits during prosecution whether the claims are novel. Restriction of the claims would deny Applicants such an opportunity.

Applicants respectfully submit that the present application is predicated in part on the recognition that G-CSF plays a major role in inflammatory arthritis. Down-regulating G-CSF activity or inhibiting the G-CSF receptor can be useful to treat or reduce severity of the conditions associated with arthritis. This unique recognition provides the basis for developing therapeutic products and methods for down-regulating G-CSF activity or inhibiting the G-CSF receptor in an animal subject. It is respectfully submitted that all claims presented in the present application share the technical feature of down-regulating G-CSF activity or inhibiting the G-CSF receptor in an animal subject. Therefore, Applicants respectfully submit that the present claims, when considered as a whole, defines a contribution over the prior art, and should be examined in the same application.

Finally, Applicants respectfully submit that a determination to make the pending restriction requirement final must evidence the patentable distinctness of all defined four groups, one from the other, as presented by the Examiner.

Accordingly, it is respectfully submitted that claims 1-5, 8, 11-14, 18, 22, 29-32 and 36 satisfy the requirements for unity of the invention. Applicants respectfully urge that the Examiner reconsider and withdraw the requirement for restriction and provide an action on the merits with respect to all the pending claims.

Respectfully submitted,



Xiaochun Zhu
Registration No. 56,311

SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 Garden City Plaza-STE 300
Garden City, New York 11530
(516) 742-4343
ZY:ab